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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/536,191

03/27/2000

Robert J. Donaghey

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12/15/2004

VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQEO3H14
IRVING, TX 75038

EXAMINER

TRAN, PHUC H

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/536,191

Applicant(s)

DONAGHEY, ROBERT J.

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/10/02</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 14-17, and 26-29 are objected to because of the following informalities:
"multiple forms" is not clear what forms is used for transfer data. Appropriate correction is required.
2. Claim 32 is objected to because of the following informalities: "a memory used by at least one of a hub device and a peripheral device to transfer data" is not clear how the memory can be used to transfer data. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding to claim 12, "**a reliable** data transfer" is failing to particularly point out and distinctly claim.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 6,351,468. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

- For claims 1-43, the claims 1-2, 4-10, & 16-31 of the patent number 6,351,468 discloses a method/apparatus comprising:

a hub device configured to generate a token and broadcast the token on the network (claims 1, line 20); and

at least one peripheral device configured to receive the token broadcast by the hub device, determine whether the token identifies the peripheral device (claim 3, lines 53-55), analyze the token to determine a size (claim 1, line 21) and direction of a current data transfer when the token identifies the peripheral device (claim 20, lines 10-13), and transfer data to or receive data from the hub device according to the determined size and direction of the current data transfer (claim 2, lines 38-43),

an address of one of the hub device and the peripheral device (claim 1 lines 18-19; claim 4, lines 52-55), and a stream number that identifies one of the communication streams, which has predetermined size and direction of a data transfer (claim 1, line 21),

wherein the network operates according to a communications protocol shared by the hub device and the peripheral device to synchronize timing of communications (claim 1, line 9; and claim 11)

wherein the communications protocol includes a plurality of frames, each of the frames including:

a signal that marks a start of the frame (claim 1, line 9),

at least one token transmission that identifies the peripheral device (claim 4, lines 52-55),

and

at least one data transfer opportunity that permits the hub device to communicate a data block with the peripheral device (claim 1, line 10)

a plurality of data blocks, each of the data blocks containing an address of one of the hub device and a peripheral device (claim 1 lines 18-19; claim 4, lines 52-55), a stream number that specifies a size (claim 1, line 21) and direction of transfer (claim 2, lines 38-43),

wherein the peripheral device includes a plurality of virtual peripheral devices (claim 1, line 2)

a link layer control structure that performs network bandwidth control and token planning (claim 1, lines 20-23),

a network interface structure that determines whether and when to schedule a data transfer (claim 1, lines 22-23), and

wherein the hub device is further configured to schedule transmission of a status block from the peripheral device

wherein the hub device is further configured to schedule transmission of data from the peripheral device when the status block from the peripheral device indicates that the peripheral device has data ready for transmission to the hub device (see claim 1),

a beacon that marks a start of one of the frames (see claim 19),

the link layer transport structure is further configured to generate a header having error checking information for the data transfer (see claim 7).

- For claim 1-43, the claim 1-2, 4-10, & 16-31 of the Patent discloses all the limitation but it does not disclose a single wireless communication channel having a plurality of logical unidirectional communication streams, the data transfer occurring over one of the communication streams and a data buffer, the hub device cycling through the data blocks to generate the tokens wherein the peripheral device is further configured to respond to at least two addresses wherein the peripheral device is further configured to associate at least one active communication stream with each of the at least two addresses wherein the peripheral device is further configured to respond to at least three addresses, one of the three addresses being an address of the hub device. However in the wireless communication channel having a plurality of logical unidirectional communication streams, have buffer and cycling through the data block to generate the token are well-known in the art since the patent teaches about the method claims. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to know the method in the claims of the patent for the purpose of providing configurable layers and protocols in a communication system.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran
Assistant Examiner
Art Unit 2664

P.T
12/11/04



DANG TON
TECHNICAL EXAMINER